

# SAVE SAN FRANCISCO BAY ASSOCIATION

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## MEMORANDUM

To: Kate Hansel/Lester Snow  
From: Cynthia Koehler  
Date: August 11, 1999  
RE: Current CALFED Governance Issues

Thank you for taking the time to talk with me about CALFED's governance discussion. Per your suggestion, this paper summarizes Save The Bay's position on these issues. While not vetted with the Water Caucus, the views expressed here are consistent with prior EWC positions.

### **1. Assurances vs Governance**

We remain concerned that CALFED has not yet addressed program assurances, and assurances that the ERP performance standards will be attained in particular. Each of the questions raised in our March 1998 letter still await serious examination and resolution. We appreciate that CALFED is aware of this and agrees that assurance questions must be resolved by the time of the ROD. Nevertheless, the effort or process to do so is not readily apparent.

Efforts have now shifted to "governance". This is an important, but only partial, element of the assurances puzzle. To be productive, the governance debate should proceed from the question: *What institutional structure for the overall program, as well as the individual program elements, will best assure that the program performance objectives will be attained?* CALFED seems to be proceeding from a different inquiry: What changes in the structure of the Bay-Delta Program would make it function more effectively as an implementation agency?

CALFED and Policy Group should redouble efforts to develop a comprehensive assurances package. Its consideration of governance issues should be based on how well various governance options will serve achievement of the program's performance standards.

### **2. Merging of CALFED Overall Structure and Ecosystem Restoration Governance**

Recent discussions have melded the questions of (1) the institutional home for the ERP and (2) how long-term CALFED program oversight should be structured. We agree that these are both important issues requiring attention. We disagree that they are the same issue or that there is a one-size fits both solution. Questions regarding oversight of the 4 program areas is fundamentally different than daily implementation of one of those programs. This is true across the board -- no one seems to be advocating that the water management program be housed inside a CALFED oversight entity.

CALFED should address these issues as the distinct questions they are. It may be that CALFED does ultimately decide that the ERP goals will be best achieved by merging these two functions. This decision will have far more credibility if CALFED has thoroughly examined the very different issues raised by ERP implementation versus program oversight.

### **3. CALFED Oversight Structure Assurances/Governance**

CALFED seems to be seriously considering only one oversight option; a new agency that would manage all elements of the CALFED program. **Save The Bay neither supports nor opposes this proposal at this time.** However, we are concerned by the limited number of options under review. Alternative "straw proposals" for program oversight should be developed. Questions about what Policy Group wants to accomplish in terms of oversight must be asked.

#### **\* A CALFED Management Agency**

This proposal appears to have significant momentum even though no one has made a case for it from an assurances perspective. Questions that we have raised have never been addressed:<sup>1</sup>

- Will an agency positioned between Policy Group and the on-the-ground implementors create further opportunities for politicization of an already highly political process, i.e., more decision makers, more decision points?
- The new CALFED entity would be more formidable (and have less precedent) than a new eco-restoration entity; are there similar political feasibility objections?
- Is this hierarchical approach the best way to ensure that program goals will be achieved?

#### **\* Formalization of Policy Group**

CALFED should develop a straw proposal around a more limited oversight structure wherein primary implementation and management authority would rest with the implementing agencies (DWR, BR, FWS) and strengthened inter-agency "networks" or lateral ties, e.g., Ops Groups-like inter-agency forums for addressing overlapping jurisdictional issues and conflict resolution.

The assumption that CALFED will or should be governed as one big program, as opposed

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<sup>1</sup> We are surprised that our CET colleagues concluded that the governance workshop pointed toward the establishment of this type of agency for the oversight issues. Our understanding was to the contrary -- the case studies presented dealt exclusively with how to run an eco-program and the presenters seemed very reluctant to extrapolate from those experiences lessons relevant to the type of overall oversight raised by the larger CALFED program.

to separate but coordinated programs, should be thoroughly explored. Clearly, some level of focused attention at a policy group level will continue to be necessary, particularly in the first 10 or so years of the program. The question that does not seem to have been asked is: What level of attention should this be? Should all program priorities be set in one place?

Once again, we emphasize that Save The Bay does not recommend any particular oversight approach at this time. We strongly recommend that Policy Group more clearly define what they expect they will require in the way of programmatic oversight, that they explore more than one option, and that they ask hard questions about each of these options.

#### **4. Ecosystem Restoration Assurances/Governance**

Successful attainment of the restoration performance standards will depend, in part, on whether someone is responsible for achieving them. Responsibility for the Central Valley Basin ecosystem is highly fragmented. It is no criticism of FWS or any other agency to acknowledge this fact. The stakeholders reached consensus long ago that fragmented responsibility for implementation of the ERP would substantially undermine its likelihood of success, thereby undermining long-term water supply reliability.

If any clear lesson came out of the the Governance Workshop case studies this was it; in each case, the parties concluded that responsibility for the restoration program at issue had to reside in one place. CALFED has an ambitious restoration agenda that cannot, today, be fully implemented by FWS, or any other agency, without significantly adding to their current financial, legal and political capacity. It is of little concern whether an old or new institution is responsible for the eco-program;<sup>2</sup> it is of enormous importance that responsibility is clearly located and that whoever is responsible have all of the tools necessary to do the job.

Progress on this issue has been derailed and critical time is being lost. We do not disagree that oversight issues are important; however there seems to be no reason, or benefit, to address these issues sequentially. To the contrary, they are iterative questions and progress in one area should inform the other.

CALFED should work with the stakeholders to continue the work of last winter and develop several institutional and legislative "straw" proposals for implementing the restoration program.

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<sup>2</sup> The stakeholders concluded that a new, non-regulatory entity would have advantages over trying to add to the authorities of an existing agency and there is considerable precedent for this approach. However, the form of the institution has always been a secondary concern.